

Message

From: Mutter, Andrew [mutter.andrew@epa.gov]
Sent: 12/3/2018 8:58:57 PM
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Subject: FW: Compilation 12/3/2018

From: Agarwal, Ilena
Sent: Monday, December 3, 2018 1:58:50 PM (UTC-07:00) Mountain Time (US & Canada)
To: AO OPA OMR CLIPS
Subject: Compilation 12/3/2018

Politics

[EXCLUSIVE: FORMER SCOTT PRUITT AIDE, CLEARED OF WRONGDOING, SPEAKS OUT, BUT THE DEMOCRAT WHO ACCUSED HER REMAINS SILENT](#)
[EHS: EPA Memos Soften Information Request Policies](#)
[Greennews: Barriers to environmental justice 'widespread' across EU](#)

Chemicals

[The Baltimore Sun: EPA waiting to clear abandoned Baltimore warehouses of chemicals deemed 'a seven-alarm fire' risk](#)
[Associated Press: EPA waits on courts to clean up 2 Baltimore warehouses](#)
[Chemical Watch: Senate confirmation hears bipartisan support for OCSPN nominee](#)

Emissions

[Reuters: U.S. clean coal program fails to deliver on promised smog cuts](#)
[EPA settles with West Chester home improvement company for alleged lead paint violations for \\$17.5K](#)
[The Morning Sun: One stage of the St. Louis clean-up ends as the next one is set to begin](#)
[Chicago Tribune: Selle: Feds tackle pollution risks as locals watch from sidelines](#)
[Environmental Protection: End of Libby Cleanup in Sight: EPA](#)
[Bloomberg Law: EPA Dodges Liability Over Superfund Cleanup Assets-Taking](#)

Biofuel

[EPA announces biodiesel and advanced biofuels volumes](#)
[Oil & Gas Journal: EPA establishes fresh renewable fuel, biomass-based diesel quotas](#)

EXCLUSIVE: FORMER SCOTT PRUITT AIDE, CLEARED OF WRONGDOING, SPEAKS OUT, BUT THE DEMOCRAT WHO ACCUSED HER REMAINS SILENT

<https://dailycaller.com/2018/12/01/epa-scott-pruitt-samantha-dravis/>

Michael Bastasch- 8:52 AM 12/01/2018

- Former EPA official Samantha Dravis spoke out against now disproven accusations leveled by Democrats.
- Democrats accused her of missing months of work while at EPA, but investigators found no evidence of this.
- “This was an allegation that was completely unfounded from the start,” Dravis said.

Democratic Delaware Sen. Tom Carper was silent on news federal investigators could not substantiate allegations he brought against former Environmental Protection Agency political appointee Samantha Dravis.

Dravis, however, called the allegations against her “unfounded from the start.” EPA investigators found no support for accusations she skipped work for a three-month period.

“The inspector general process should be used to investigate credible ethical breaches, not smear and destroy political enemies,” Dravis told The Daily Caller News Foundation.

“This was an allegation that was completely unfounded from the start, and entirely contradicted by the record,” said Dravis, who served as EPA’s senior counsel and associate administrator of the policy office.

Carper did not respond to multiple requests for comment, despite being the reason EPA officials investigated Dravis’s attendance while she worked for former Administrator Scott Pruitt. Carper is the ranking Democrat on the Senate Committee on Environment and Public Works.

A source close to matter told TheDCNF one of Carper’s staffers openly bragged about sparking an investigation into Dravis. That same staffer also asked Dravis’s associates for help accessing her personal photos on social media, said the source, who wished to remain anonymous for fear of retaliation.

Carper asked the EPA’s Office of Inspector General (OIG) in March to investigate whether Dravis missed three months of work while still collecting a paycheck. Carper’s letter does not reveal his source, but Democrats eventually disclosed it was one among many accusations leveled by whistleblower Kevin Chmielewski.

Chmielewski gave Democrats a laundry list of accusations against Pruitt and his close aides, including Dravis. The former EPA official told Democrats “for a period of weeks, he did not personally see Samantha Dravis” at EPA headquarters in Washington, D.C.

Pruitt resigned in July as allegations of ethical misconduct and mismanagement piled up. However a number of Chmielewski’s claims against Pruitt’s aides didn’t add up under closer scrutiny.

Dravis left EPA in April while investigators were still researching claims she was absent from work for three months. For months, Dravis and her family were distressed, and forced to spend thousands on legal fees to deal with the investigation.

Senator Tom Carper speaks to reporters ahead of the weekly party luncheons on Capitol Hill in Washington
Senator Tom Carper (D-DE) speaks to reporters ahead of the weekly party luncheons on Capitol Hill in Washington, U.S., August 1, 2017. REUTERS/Aaron P. Bernstein.

However, OIG could not substantiate Chmielewski’s claim that Dravis was absent for weeks at a time.

"Investigators interviewed witnesses, who stated that the employee was often in the EPA office and attended meetings during that time frame," OIG wrote in a report submitted to Congress Thursday.

"Investigators reviewed records, which showed that the employee worked during the time specified," OIG reported. "Witnesses also stated that the employee did not have subordinates conduct menial tasks. During an interview, the subject denied both allegations. The allegations were not supported."

Dravis's former co-workers took to Twitter to castigate Carper for sparking the investigation.

The Baltimore Sun: EPA waiting to clear abandoned Baltimore warehouses of chemicals deemed 'a seven-alarm fire' risk

<https://www.baltimoresun.com/news/maryland/environment/bs-md-epa-warehouse-20181202-story.html>

Scott Dance- December 3, 2018

Hundreds of barrels of toxic chemicals — enough to cause a seven-alarm blaze if they ignited, a fire official told regulators — remain in two abandoned and dilapidated warehouses in East Baltimore as the Environmental Protection Agency waits for permission to access a site that has been considered an environmental hazard since May.

The buildings on Quad Avenue, along a stream near the Baltimore County line, are overgrown and open to the elements, according to an EPA inspection report.

Inside, barrels of toxic substances labeled as flammable and corrosive were found stacked two or three high, many of them “corroded” and “distended,” according to EPA documents. Some of the barrels were open, revealing black, “oil-like” liquid, the documents said.

“We are maintaining site security and pursuing court-ordered access to complete the response action and conduct off-site disposal of the wastes which are currently separated and staged,” said David Sternberg, an EPA spokesman.

The cleanup is estimated to cost \$1.8 million.

Baltimore approves study of toxic chemicals in Back River in hopes of figuring out how to get rid of them
The warehouses were used for decades to manufacture epoxies used in floor coating, and, more recently, for production of biofuels.

City housing inspectors found the barrels of chemicals in a May visit to the site, after being tipped off by a Maryland Department of the Environment inspector that the warehouses contained large amounts of chemicals and that the owner of the buildings could not be reached.

Records show the owner to be Kinloch Nelson Yellott III. But the documents say that once EPA officials were able to reach the man, he “indicated that he did not believe that he still owned the property as it was sold in a tax sale.”

City records show that a \$14,000 lien on the properties, 6624 and 6630 Quad Ave., was sold to New York-based Stonefield Investment Fund IV LLC in the tax sale held in May 2017. Under the state tax sale process, an investor that buys a lien on a property can move to foreclose six months later. The investor’s right to foreclose on the property lasts two years from the date of the tax sale.

Baltimore plant involved in HAZMAT incident is part of global chemical giant
Yellott could not be reached for comment on this article.

Businesses that have operated out of the site include Haven Corp., a floor coatings business that moved to the site in 1979; Free State Bio Fuels; and Eagle Creek Fuel Services.

Among the substances stored in the warehouses are methanol and triethylene glycol, both flammable chemicals, and epoxy constituents that bear labels declaring them an “ENVIRONMENTALLY HAZARDOUS SUBSTANCE,” such as Bisphenol A diglycidyl ether.

During the May inspection, a Baltimore City Fire Department battalion chief who visited the site warned city housing officials “that a fire at this location would likely be ‘a seven alarm’ fire and catastrophic to the area, from both a fire and environmental impact.”

Associated Press: EPA waits on courts to clean up 2 Baltimore warehouses

https://www.washingtonpost.com/local/epa-waits-on-courts-to-clean-up-2-baltimore-warehouses/2018/12/03/900bd0b6-f705-11e8-8642-c9718a256cbd_story.html?utm_term=.6ffc760762ea

By Associated Press December 3 at 9:13 AM

BALTIMORE — Two Baltimore warehouses considered environmental hazards sit abandoned while the Environmental Protection Agency pursues court-ordered access to clear the sites.

News outlets report city housing inspectors tipped off by a Maryland Department of the Environment inspector found barrels of toxic substances stacked in two dilapidated warehouses in May. According to an EPA inspection report, the warehouses along a stream near the Baltimore County line are open to the elements.

A fire battalion chief warned officials a potential fire would likely be a “seven-alarm fire” with a catastrophic environmental impact.

EPA spokesman David Sternberg says the department is maintaining site security while pursuing access. Records list Kinloch Nelson Yellott III as the owner, but he told EPA officials the property was sold in a tax sale.

Cleanup costs are estimated at \$1.8 million.

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EHS: EPA Memos Soften Information Request Policies

<https://ehsdailyadvisor.blr.com/2018/12/epa-memos-soften-information-request-policies/>

By William C. Schillaci Dec 3, 2018 Special Topics in Environmental Management

Two EPA offices have issued memos revising and/or clarifying Agency policies on collecting information from the regulated community.

One memo from the Office of Water (OW) applies specifically to noncompliance/enforcement data the Agency needs to implement the Clean Water Act (CWA). The second memo applies to information needed for compliance/enforcement purposes under multiple statutes, the Clean Air Act, and the Resource Conservation and Recovery Act (RCRA) as the CWA. A point emphasized in both memos is that EPA administrators conducting the information requests should do so in a manner that recognizes and respects the constraints and business considerations under which the recipients are operating.

These information requests are separate from public comments the EPA requests on proposed regulations or draft guidance and policy documents.

Office of Water

The OW policy was issued under the auspices of CWA Section 308. That section provides the EPA with the authority to collect information from the regulated community, which may be needed to fulfill the purposes of the Act (e.g., development of sector-specific effluent limitations). This information may include monitoring data, as well as information about the equipment used to conduct monitoring. Section 308 also authorizes the Agency to collect information on possible violations of effluent limitations, but the new policy does not apply to compliance and enforcement activities.

Most of the new policy discusses Section 308 letters, the formal mechanism for obtaining information. But one intent of the new policy is to encourage EPA staff to work with regulated entities to acquire the information without resorting to sending letters. The concern, the policy notes, is that the letters have “the potential to impose a significant burden on the regulated community.”

Given that concern, the policy directs that administrators should first learn if the information is already in the Agency’s possession, thereby removing the need to make inquiries outside the Agency. If the information is not internally available, administrators must take several actions before sending letters, including engaging with the regulated community early in the process to discuss the EPA’s information needs and efficient strategies for providing that information to the Agency.

“Only after failed early engagement, the EPA may prepare an initial draft of the CWA Section 308 letter to share with the potential recipient and to promote further engagement and dialogue,” the policy continues.

In addition, the policy instructs that Section 308 letters be carefully worded to avoid imposing unnecessary burdens on the recipient. For example, the letters should refrain from using language requiring “any” and “all” information and must be clear about the scope of what is being sought. Also, letters should provide the recipient with ample time to collect the information and, generally, should not direct that information be provided in a specific form. If the information must be sent in a specific form, the policy directs that staff work with the recipient “to minimize the recipient’s level of effort as much as possible.”

Drafts of letters must be approved by EPA senior staff. Even after approval, the policy directs that regulatory staff engage with the potential recipients to discuss the information request and attempt to collaborate on a reasonable strategy for the EPA to obtain the required information.

The OW memo is available [here](#).

OECA

Obtaining information for compliance and enforcement purposes is addressed in the second memo from the Office of Enforcement and Compliance Assurance (OECA) to the Agency's regional counsel and enforcement officials. The information contemplated in the policy is intended to assist the Agency in determining whether a violation has occurred. The memo lists best practices that "should create a consistent practice among the Regions and [Office of Civil Enforcement] Divisions, which will improve certainty for the regulated community." The more specific goals include minimizing transaction costs for both the recipient and the government, using the appropriate tone in requesting information, and providing recipients with sufficient time to respond.

In contrast to the OW policy, the OECA memo indicates that there may be superior benefits to obtaining information formally rather than informally.

"Gathering documentation through a formal information request may avoid the potential for confusion and misinterpretation or delays in obtaining needed information," states the OECA. "Formal information requests can also enhance the quality of the evidence collected and ensure the appropriate management control over the scope and types of information requested from the facility."

Similar to the OW memo, the OECA's best practices include resorting first to in-house (Agency) sources of information. Also, the memo states that staff should not ask for information for which there is no reasonable use; should use potential penalty language guardedly (e.g., when requesting information for a small entity with little or no experience with the EPA); should write as plainly as possible, including clear instructions on what information the Agency needs; and should provide a response time that is reasonable for the amount of information that needs to be gathered.

The OECA memo is available [here](#).

Reuters: U.S. clean coal program fails to deliver on promised smog cuts

U.S. taxpayers have spent billions of dollars subsidizing chemically treated refined coal, but a Reuters analysis of EPA data shows that the power plants burning it often pump out more smog, not less.

<https://www.reuters.com/investigates/special-report/usa-coal-pollution/>

By TIM MCLAUGHLIN Filed Dec. 3, 2018, noon GMT

Champions of coal say the superabundant fossil fuel can be made environmentally friendlier by refining it with chemicals – a “clean coal” technology backed by a billion dollars in U.S. government tax subsidies annually.

But refined coal has a dirty secret. It regularly fails to deliver on its environmental promises, as electric giant Duke Energy Corp found.

Duke began using refined coal at two of its North Carolina power plants in August 2012. The decision let the company tap a lucrative federal subsidy designed to help the American coal industry reduce emissions of nitrogen oxides – also known as NOx, the main contributor to smog and acid rain – along with other pollutants.

In nearly three years of burning the treated coal, the Duke power plants collected several million dollars in federal subsidies. But the plants also pumped out more NOx, not less, according to data from the U.S. Environmental Protection Agency analyzed by Reuters.

The NOx emission rate at Duke’s Marshall Steam Station power plant in Sherrills Ford, North Carolina, for example, was between 33 percent and 76 percent higher in the three years from 2012 to 2014 than in 2011, the year before Marshall started burning refined coal, the EPA data shows.

The utility also discovered that one of the chemicals used to refine the coal, calcium bromide, had reached a nearby river and lakes – raising levels of carcinogens in the water supply for more than a million people in greater Charlotte.

Duke stopped using refined coal at the plants in May 2015 because of the water pollution problems, said spokeswoman Erin Culbert. Bromide levels in the region’s drinking water dropped sharply several months later, said Barry Gullett, the city’s water director, in a 2015 memo.

Duke’s experience reflects a fundamental problem with the U.S. clean coal incentive program, a Reuters examination has found. Refined coal shows few signs of reducing NOx emissions as lawmakers intended, according to regulatory documents, a Reuters analysis of EPA emissions data, and interviews with power plant owners, scientists and state environmental regulators.

Consumption figures compiled by the U.S. Energy Information Administration show that American power plants are on track to burn about 160 million tons of clean coal in 2018 – a fifth of the U.S. coal market. That amount would generate about \$1.1 billion in incentives at the current tax credit amount of \$7.03 per ton.

But most of the plants receiving the subsidy failed to reduce NOx emissions by 20 percent – the threshold required under the policy – in 2017 compared to 2009, the last year before they started burning refined coal, according to a Reuters analysis of EPA data on power plant emissions.

Reuters identified 56 plants that burned refined coal in 2017 using data from the U.S. Energy Information Administration and disclosures from energy companies and refined-coal developers.

Only 18 of that group reduced NOx emissions by more than 20 percent in 2017 compared to 2009. And 15 of those 18 only reported the improvements after installing or upgrading pollution control equipment or switching a portion of power production to cleaner-burning fuel, complicating the question of whether their pollution reductions are attributable to refined coal.

At 22 of the 56 plants, NOx emissions were higher in 2017 while burning refined coal than they were when using raw coal in 2009.

As a group, the fleet of U.S. power plants that burn refined coal also underperformed the rest of the industry in cutting emissions of NOx, the Reuters analysis found. NOx emissions rates declined 19 percent among the 56 power plants that reported burning refined coal in 2017. That compares with a 29 percent reduction by 214 other coal-fired power plants over the same period.

The analysis included U.S. coal-fired power plants with at least 100 tons in annual NOx emissions in 2017.

Investors in plants that failed to show substantial NOx emission cuts collected the tax credit anyway because the Internal Revenue Service allows them to prove emissions reductions with laboratory tests. The results of those tests – conducted for several hours a couple of times a year – often do not translate to real-world improvements at plants that burn millions of tons of coal annually.

The IRS, which approves applications for the tax credit, declined to comment on the design or effectiveness of the testing regimen.

“It’s hard to hang your hat on refined coal as the way to reduce nitrogen oxide emissions,” said Ron Sahu, an environmental engineer who has consulted with utility companies, the EPA and the U.S. Justice Department on power plant emissions. Sahu, who reviewed the data and methodology used by Reuters, said the analysis shows refined coal has little to no impact in reducing NOx emissions at actual power plants.

“It’s clear that any benefit from refined coal can easily be overwhelmed by modest changes in combustion conditions” at power plants, Sahu said. “It’s debatable that a tax credit should be given for NOx reduction.”

Reuters sent its analysis of EPA emissions data to every major utility operating power plants that burn clean coal, along with the leading U.S. investors who finance clean coal facilities in partnerships designed to take advantage of the subsidy. Most companies declined to comment or did not respond. The handful that did respond did not contest the findings of the analysis.

“We do agree with the overall assessment that emission controls have a more measurable impact on emissions reductions over refined coal,” DTE Energy, a Detroit-based utility that uses refined coal, told Reuters.

The Edison Electric Institute, which represents the U.S. electric utility industry, did not respond to requests for comment.

The law requires all refined coal producers seeking the subsidy to show that burning their product can lead to a 20 percent cut in NOx emissions. The producers also must show a 40 percent reduction in either mercury or sulfur dioxide. They are given the choice of which of those two pollutants to target.

Refined coal investors tend to target mercury as the second pollutant for cuts, according to disclosures by the corporations involved in the program. That’s because reducing mercury emissions with refined coal is a cost-effective way for plants to comply with other, relatively new EPA regulations governing the pollutant. Utilities already have spent tens of billions of dollars on equipment to filter out sulfur dioxide, making additional reductions of that gas more difficult.

The subsidy program has been more successful at combating mercury than NOx, the analysis found. The mercury emission rate at power plants burning refined coal product, for example, fell 75 percent between 2009 and 2017, more than the 40 percent cut required to qualify for the subsidy. Some of those cuts can also be attributed to other pollution control measures, such as the installation of scrubbers that filter coal plant exhaust, according to the EPA.

High exposure to mercury can damage the intestines, kidney and nervous system, according to the EPA. Sulfur dioxide and NOx can cause lung damage.

The refined coal subsidy was adopted by Congress and signed into law by President George W. Bush as part of the American Jobs Creation Act of 2004, alongside credits for generating renewable energy from solar and wind. The legislation had broad bipartisan support and generated little public debate.

The subsidy is set to expire in 2021, and coal-state lawmakers, including North Dakota Republican Congressman Kevin Cramer, are moving to extend it for another decade.

"The tax-credit program is bridging the divide to make coal clean and beautiful," said Cramer, borrowing President Donald Trump's two favorite adjectives to describe coal.

Trump has promised to advance the interests of the coal industry to support blue-collar energy jobs. His administration has argued coal provides a more reliable fuel for power generation than natural gas, solar and wind, which can be more easily interrupted by pipeline problems or uncooperative weather.

The White House did not respond to requests for comment.

'TOO GOOD TO BE TRUE'

In one of the industry's first refined coal ventures, power plant operator Associated Electric Cooperative Inc in 2010 signed a 10-year deal with affiliates of Goldman Sachs Group Inc to burn refined coal at the New Madrid and Thomas Hill power plants in Missouri.

As a tax credit investor, Goldman worked with Advanced Emissions Solutions Inc to build refined coal facilities next to the cooperative's power plants. A refined coal operation typically costs about \$6 million to develop, featuring new conveyor belts and sprayers to move and treat the coal with chemicals, according to presentations to investors by Advanced Emissions. Silos also are installed to store the refined coal chemicals.

HOT SPOT: Steam is seen rising from the water at Lake Norman as a fisherman is seen near the "hot hole," where water is released from Duke Energy's Marshall Power Plant in Sherrills Ford, North Carolina, U.S. November 29, 2018.

REUTERS/Chris Keane

The deal called for the utility to sell raw coal to the Goldman-led investment group at cost, and then buy it back at a discount after it was treated, saving the utility millions of dollars, disclosures show.

Goldman and its investment partners collected about \$63 million in gross tax credits from the program in 2017, based on an estimate in Associated's annual report that its plants used 9 million tons of coal that year. Goldman Sachs declined to comment.

Associated had no upfront cost for the refined coal facility and contributes nothing to its annual operating costs. It forecast the arrangement would bring in \$7 million to \$9 million in annual revenue through at least 2018. "The project at first was questioned as simply too good to be true," the utility wrote in its 50th anniversary report released in 2011.

The money-making deal also illustrates how the potential benefits of refined coal on air quality can be erased by a variety of complex factors.

The New Madrid plant in southeast Missouri, for example, has seen its production of NOx soar to a higher rate than any other U.S. coal plant while burning refined coal. In 2017, the plant's NOx emission rate was 298 percent higher than it recorded in 2009, before New Madrid started burning clean coal, according to the EPA. During the first quarter of 2018, the rate jumped even further, to seven times the 2009 level.

Associated Electric said the increase in NOx emissions at New Madrid was due in part to the cooperative's purchasing tradable pollution credits through the U.S. cap-and-trade system. The market-based system sets an overall limit on pollution, and allows power plants that cut their pollution to earn credits that can be stockpiled or sold to other polluters. When large volumes of credits are generated, the cost of buying them can be lower than the cost of running pollution control equipment.

"At times during the last seven years Associated has met compliance with emissions rules by purchasing NOx credits from the cap-and-trade markets, rather than running the control equipment all year," the electric cooperative said in a statement, which it issued through Goldman Sachs spokesman Michael DuVally.

The National Mining Association, which represents the U.S. coal industry, supports extending the tax credit. It said the cap-and-trade system was the primary reason NOx emissions went up at many power plants in the Reuters analysis. The association said clean coal lowers emissions, but provided no data to support the claim.

Duke Energy said in a statement that routine changes in electricity demand can also make clean coal ineffective in reducing NOx by changing boiler temperatures and catalyst conditions in pollution control devices.

Sahu, the environmental consultant, said refined coal is most effective at reducing NOx emissions when a utility burns the fuel at a relatively low temperature, something that typically occurs when electricity demands on the plant are low.

But using low temperatures over an extended period can also damage power plant boilers by causing corrosion and soot buildup, he said. Conversely, burning the coal at a relatively high temperature – more common during high-demand periods – can reduce the risk of damage but limit the effectiveness of smog reductions.

The Grand River Dam Authority stopped burning refined coal at its Oklahoma power plant last year because corrosion and other problems outweighed any upside, said John Wiscaver, head of GRDA's corporate communications.

"We had too many problems with refined coal," he said.

TROUBLED WATERS

Refined coal has also led to contamination of water supplies for more than a million people, according to regulators and utility officials.

In 2012, the South Carolina Department of Health & Environmental Control noticed elevated levels of bromides, the chemicals used to treat refined coal, in the Santee Cooper-Lake Moultrie public water system, said Tommy Crosby, a spokesman for the agency.

The South Carolina plant's refined coal operation stopped spraying bromide on the coal burned at the Cross Generating Station out of concern for the elevated levels of cancer-causing trihalomethanes, Crosby said, and the levels decreased within six months. Trihalomethanes are created when bromide mixes with the chlorine in treated drinking water.

The plant's refined coal facility was financed by global insurance firm AJ Gallagher, Boston-based mutual fund giant Fidelity and a U.S. subsidiary of France's Schneider Electric SE. Fidelity declined to comment on the elevated TTHM levels and pointed out that federal limits were not exceeded. Schneider Electric and AJ Gallagher declined to comment.

The North Carolina town of Mooresville, downstream of Duke's Marshall power plant, saw its trihalomethanes surge as high as 127 parts per billion at times in 2015, after the facility discharged bromide used to treat coal into a nearby lake, according to the town's drinking water quality report.

That did not trigger a violation of federal clean water rules because the town's annual average of 54 parts per billion that year was below the maximum trihalomethane contaminant level of 80 parts per billion. The same was true of the South Carolina plant, where trihalomethane levels in 2012 rose to 67 parts per billion.

Over the past decade, however, many studies have shown that exposure to trihalomethanes at much lower levels than the federal limit raises the risk of cancer and of problems during pregnancy. Some people who drink water containing TTHMs in excess of the maximum standard over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer, according to the EPA.

In 2016, the EPA included bromide in the Safe Water Drinking Act as an unregulated contaminant to be monitored by public water systems.

Research by Jeanne VanBriesen, director of Carnegie Mellon University's Center for Water Quality in Urban Environmental Systems, found that bromide additives used to reduce mercury could significantly boost trihalomethanes in drinking water supplies downstream of coal plants. Her 2017 study focused on 22 drinking water systems serving 2.5 million people in Pennsylvania.

Once Duke Energy halted refined coal operations at the North Carolina plant, bromide dropped about 75 percent in the nearby Catawba River, Zachary Hall, director of environmental science at Duke, said in a February 2017 deposition given to the Southern Environmental Law Center.

Duke officials concede that bromide applications contributed to the elevated trihalomethane levels.

"While bromides from our facilities were not the sole cause," Duke's Culbert said, "we felt it was important to partner with downstream water utilities and suspend the program."

EPA settles with West Chester home improvement company for alleged lead paint violations for \$17.5K

<https://pennrecord.com/stories/511651348-epa-settles-with-west-chester-home-improvement-company-for-alleged-lead-paint-violations-for-17-5k>

By Nicholas Malfitano | Dec 3, 2018

PHILADELPHIA – A West Chester-based home improvement company has been ordered to pay a \$17,500 penalty in order to resolve alleged violations of the lead-based paint Renovation, Repair and Painting (RRP) Rule by the Environmental Protection Agency.

The RRP Rule, enacted as Pennsylvania law in 2008, is a protective mandate which intended to protect the public from lead-based paint hazards connected to renovation, repair and painting activities. These activities can create hazardous lead dust when surfaces with lead paint, even from many decades ago, are disturbed. Lead-based paint was banned by the federal government in 1978.

It requires workers to be certified and trained in the use of lead-safe work practices, and requires renovation, repair, and painting firms to be EPA-certified, and the requirements went into full effect on April 22, 2010.

Under the RRP rule, firms performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and kindergartens built before 1978 must be EPA- or state-certified, and must use “certified renovators who follow specific work practices to prevent lead contamination.”

This includes in-house maintenance staff and many types of outside contractors. In order to become certified renovators, individuals must take training from an EPA-accredited training provider. For firms to be certified, they must submit an application and fee to the EPA online.

The EPA alleged during multiple residential renovations in West Chester in February 2017, Chapman Windows and Doors (trading under its parent company name of “Air Tight Home Improvements”) violated the RRP “lead-safe” requirements by:

- * Failing to document whether target housing owners had received a mandatory lead hazard information pamphlet titled “Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools” in a timely manner;
- * Failing to retain possession of records regarding document compliance with lead-practices during renovation; and
- * Failing to make sure renovators conducting the work were certified by the EPA to conduct lead-safe renovations.

Chapman Windows and Doors did not admit to the alleged violations, but as part of the settlement, has “cooperated with the EPA in resolving this matter and certifying its compliance with applicable RRP requirements.”

“Infants, children, and pregnant women are especially vulnerable to lead exposure, which can cause lifelong impacts including developmental impairment, learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavioral problems. Because of these health risks, the U.S. banned lead-based paint in 1978,” according to the EPA’s release on the matter.

However, the EPA estimates that lead-based paint is still present in more than 30 million homes nationwide.

The Morning Sun: One stage of the St. Louis clean-up ends as the next one is set to begin

https://www.themorningsun.com/news/one-stage-of-the-st-louis-clean-up-ends-as/article_5b0381c6-f70e-11e8-9dc7-d73502d81e1e.html

By Linda Gittleman For the Morning Sun Dec 3, 2018

About 56,000 pounds of contaminants were removed from the first section of the Velsicol Chemical plant site in St. Louis.

A final report is expected early next year.

Completion of the one acre site - called Area 1 - makes way for clean up of Area 2, a bigger project, according to Diane Russell, an Environmental Protection Agency employee.

Design for the three acre project is expected to be developed over the winter months, she said, and work is expected to begin in the spring.

Heating of the soil for the thermal treatment won't begin until October, 2019 and Area 2 is scheduled to be finished in the fall of 2021.

That section is expected to cost about \$25 million.

Pine River Superfund Task Force Secretary Jane Keon noted the difference between the two areas.

Area 1 had a little more than 200 wells, while Area 2 will need up to 700 wells drilled for the treatment.

"Area 2 is the former location of DDT production on the plant site, and it includes DDT-laced NAPL at 99 feet below ground surface," she said.

Still more clean up is needed, including the burn pit.

The EPA and the state's Michigan Department of Environmental Quality are continuing to work with property owners on municipal water hookups and access roads, Russell wrote in a report to the task force.

"Design work continues, but due to electrical power requirements, in-place thermal treatment in the burn pit will not take place until Area 2 is complete," she wrote.

In another matter, a check for \$200 was given to the task force by the Alma Elks Lodge.

"We want to say thanks to the people helping the community," said Sue Helman, Elks board member. " You do so much for the community and we thank you for doing that."

Ag Daily: EPA announces biodiesel and advanced biofuels volumes

<https://www.agdaily.com/news/epa-announces-biodiesel-volumes/>

By AGDAILY Reporters Published: December 03, 2018

Over the weekend, more good news has emerged for the agricultural industry. The EPA announced that the biomass-based diesel and advanced biofuels volumes will be increased above previous year levels. The increase, however, is mitigated by the absence of reallocation of the significant gallons that were waived under exemptions issued previously by EPA to refineries.

The final rule sets the 2020 requirement for biomass-based biodiesel (BBD) volumes at 2.43 billion gallons, a 330-million-gallon increase over the 2018 and 2019 levels. Total advanced biofuel volumes, which are largely filled by biodiesel, are increased to 4.92 billion gallons.

American Soybean Association President John Heisdorffer, a soybean producer from Keota, Iowa, acknowledged the progress, saying, "We welcome this increase, as it helps a growing market for soybean oil. We are glad to see EPA acknowledge that biodiesel can play a larger role in our nation's fuel supply."

While ASA appreciates the increased biomass-based diesel volumes for 2020, Heisdorffer reiterated the ability and capacity for additional growth. "As ASA communicated to EPA during the rulemaking process, soybean farmers and our biodiesel industry partners can meet these targets, and we have the production capacity and feedstock to reasonably achieve even further growth."

ASA and its biodiesel industry partners also remain concerned that EPA has not reallocated the previous year volumes that have been waived through exemptions granted to refineries by EPA. The agency's data shows that the retroactive small refinery exemptions reduced demand for biodiesel by more than 300 million gallons in 2018.

"The biodiesel industry supports agriculture by creating jobs, diversifying fuel sources, and reducing America's dependence on foreign oil. EPA is moving in a better direction, but we urge the Administration to address the waived volumes and support the full potential of U.S. soybean farmers and biodiesel producers."

The National Corn Growers Association said the EPA moves renewable fuels and energy security forward in 2019, but the growth will only be realized if EPA does not grant refiners further Renewable Fuel Standards exemptions.

"We are pleased the Environmental Protection Agency maintained the implied conventional ethanol volume of 15 billion gallons and increased the total 2019 renewable fuel volume as intended by the RFS. However, EPA granted refineries 2.25 billion gallons in RFS waivers over the past year but did nothing to account for those lost volumes. If EPA continues to grant large amounts of waivers in this manner, the volumes set in this final rule cannot be met," said NCGA President Lynn Chrisp.

In comments on the rule, NCGA and its grower members urged EPA to take steps to maintain the integrity of the RFS, including projecting 2019 waivers and accounting for those gallons to keep the RFS volumes whole. By failing to account for waivers in this final rule, EPA ensures that any 2019 exemptions will reduce the volumes the agency sets today.

"Ethanol has been and continues to be a strong market for U.S. corn farmers, especially during these tough times in the farm economy. When the EPA continues to grant waivers and does not account for those volumes in this rule, domestic demand for our crop is lost, impacting farmers' livelihood and the economy of rural America," Chrisp said.

NCGA will continue to work with EPA to ensure the full energy and environmental benefits of the RFS are achieved. As EPA implements this volume rule, as well as considers pending petitions for RFS exemptions, NCGA urges the agency to prevent further demand destruction and support a strong RFS that will benefit America's farmers and rural communities, provide cleaner air, and boost our nation's energy security.

Chemical Watch: Senate confirmation hears bipartisan support for OCSPP nominee

<https://chemicalwatch.com/72488/dunn-committed-to-bringing-tsca-to-full-effect>

Lisa Martine Jenkins- 3 December 2018 / TSCA, United States

Places - US - Capitol building morning, Washington DC © United States Government Work

President Trump's latest nominee to head the EPA's chemical management office has said that, if confirmed in the job, she will be committed to implementing the updated TSCA.

Alexandra Dunn told a Senate committee hearing into her appointment that she would follow the law, and bring "all provisions to full effect."

And, calling the EPA a science-driven agency, she said that she would ensure the agency used the "best available science to make our decisions".

Ms Dunn was addressing a 29 November meeting of the Senate Committee on Environment and Public Works (EPW), after being put forward to be assistant administrator at the agency's Office of Chemical Safety and Pollution Prevention (OCSPP).

The previous nominee, Michael Dourson, withdrew his nomination in December last year amid controversial claims around his relationship with the chemical industry.

The EPW is yet to vote on Ms Dunn's appointment, but she seems to have won support from both sides of the aisle.

Committee chairman Senator John Barrasso (R-Wyoming) called Ms Dunn "a well qualified nominee [who] will bring a wealth of experience and expertise to this critically important position."

Meanwhile, one of the Senate's fiercest environmentalists, Senator Sheldon Whitehouse (D-Rhode Island) emphasised his confidence that Ms Dunn will implement the Lautenberg Act "as it was intended".

Scott Faber, vice president of government affairs at the Environmental Working Group (EWG), told Chemical Watch the confirmation decision is ultimately "as much a referendum on the Trump EPA's implementation of TSCA as it is about her suitability for the role."

Chicago Tribune: Selle: Feds tackle pollution risks as locals watch from sidelines

<https://www.chicagotribune.com/suburbs/lake-county-news-sun/opinion/ct-Ins-selle-gurnee-waukegan-ethylene-oxide-st-1204-story.html>

Charles Selle- December 3, 2018

There was a stretch when it seemed Waukegan being dubbed Lake County's most-polluted community was in the rearview mirror. It appears the city again may be known for its polluted sites.

Once home to the most Superfund locations in the county, Waukegan currently is one of two towns with manufacturing facilities emitting ethylene oxide, a known carcinogen. It also, according to a front-page story in last week's News-Sun, is home to psychedelic-colored waste contaminants from the power plant next to Lake Michigan.

While the former ComEd coal-burning plant, now owned by NRG Energy, has been a lakeshore fixture for decades emitting harsh pollutants into the air, we now learn that two unlined coal ash pits have toxic mixes of arsenic, chromium and lead. The heavy metals eventually will find their way into groundwater — or worse, maybe into Lake Michigan.

What is most startling about news of this latest contamination is the lack of leadership and response from city officials, especially considering Waukegan wants to develop its lakeshore. Environmental groups are taking the lead in questioning the long-time location of the ash ponds.

There was a similar reaction from the city when it was learned a Medline Industries plant on Waukegan's far west side has been emitting harmful ethylene oxide into the atmosphere. Maybe they figure it's a federal or state problem.

Gurnee officials, too, have been quiet on the second factory in their community, Vantage Specialty Chemicals, which uses ethylene oxide to sterilize medical products, as does Medline. One Gurnee resident said the village sent an email link to a federal information Web site about ethylene oxide and U.S. Environmental Protection Agency guidelines. Lake County health officials have done the same, while urging new pollution controls be installed to monitor emissions at the two facilities.

Meanwhile in Willowbrook, in western DuPage County, where the dangers of ethylene oxide first surfaced with residents complaining about cancer clusters near the Sterigenics plant in their town, Mayor Frank Trilla appeared at a forum last week sponsored by the U.S. EPA wanting to know if his residents "are safe" from the chemical in the air over their houses.

For its part, the EPA is backing off on its initial report about the carcinogens emitted by Sterigenics, Medline and Vantage. All three firms deny the dangers from the airborne chemical and that they are in variance with EPA guidelines for emissions.

Indeed, Medline officials contend "the scientific community has strongly criticized as inconsistent with overwhelming evidence and widely accepted research" the 2016 EPA risk information report on ethylene oxide. The Lake County-based company has called on the National Academy of Sciences, a private, nonprofit group, to conduct an independent review to determine the facts on ethylene oxide and provide recommendations, if needed.

That hasn't stopped Illinois Sens. Dick Durbin and Tammy Duckworth, along with Congressman Brad Schneider, D-Deerfield, from introducing federal legislation last week that would require the EPA to revise ethylene oxide emissions that date back to the administration of President George W. Bush.

The measure also would tighten standards for medical sterilization and chemical facilities, and require the EPA to notify the public no more than a month after it learns the new standards have been violated.

“The EPA needs to take all appropriate and necessary actions to protect our communities from the threat of ethylene oxide — a known carcinogen,” said Democrat Schneider, whose 10th Congressional District includes Waukegan. “This is about our public health and we need action now.”

They also have urged EPA officials to take steps to increase air quality monitoring and want to know if the EPA followed federal rules when it delayed telling Gurnee, Waukegan, Park City and Willowbrook residents about the dangerous emissions from the facilities. “We won’t let the EPA sit on its hands when it comes to protecting the public health of Illinoisans,” Durbin said.

A handful of states have adopted regulations requiring ethylene oxide emissions to be filtered. But Illinois failed to follow their leads, allowing the trio of plants to vent ethylene oxide for nearly two decades.

Since then, the EPA says more than 42,000 Lake Countians are at ground-zero from the effects of the cancer-causing chemical. It’s looking more and more like their Washington-based officials care more about their health than their grassroots elected officials. Something to consider in upcoming primary and spring municipal elections.

Irish Examiner: Complaints aplenty but no specific noise control legislation for 'crow bangers'

<https://www.irishexaminer.com/breakingnews/views/analysis/complaints-aplenty-but-no-specific-noise-control-legislation-for-crow-bangers-889593.html>

Monday, December 03, 2018 - 06:01 PM

Farmers, for over 50 years, have been using bird pest control measures but no specific national legislation exists in relation to noise containment for instruments such as 'crow bangers' or 'crop bangers', writes Anne Lucey.

A file image of a propane gas gun bird scarer

THE Department of Environment and local authorities confirmed they regularly receive complaints in relation to instruments such as 'crow bangers' or 'crop bangers', particularly in rural areas.

County councils, in particular, have availed of EPA (Environmental Protection Agency) legislation to caution some farmers with the threat of noise pollution.

However, most local authorities are not prepared to pursue the matter through the courts and, at times, it is left to an individual to initiate an action in the district court.

In Kerry, County Hall in Tralee confirmed 13 complaints had been recorded, specifically over 'crow bangers' in the period 2013-2017.

Overall, the council had received 112 public complaints relating to noise pollution within that period, ranging from loud music, burglar alarms, and construction-related noise.

This year, there were two complaints recorded by the council over bird scarers' use.

"It is worth noting that apart from the option of making a complaint to a local authority, the public has direct recourse to the district court under the EPA Act to abate noise nuisance," the council spokesman said.

In the Kerry manslaughter case in which Mr Anthony O'Mahony died, a Garda expert witness, PSV inspector Garda Jim O'Brien, had conducted tests on the deceased farmer's 'crow banger' instrument which was central to the case.

Michael Ferris who was found guilty of manslaughter following the killing of Anthony O'Mahony (inset) Garda O'Brien had testified he found the bird banger to be louder than a shotgun at close range.

But he also noted there was the additional effect of percussion from the crow banger as it pushed air in front of it.

The garda expert had worn ear muffs to test the instrument.

Frequency and positioning were other issues, the garda expert explained.

Meanwhile, prior to the Central Criminal Court trial in Tralee, earlier this year, of convicted dairy farmer Michael Ferris, the use of crop bangers had been raised in the Dail.

The matter was highlighted in May 2017 when the then minister for environment Denis Naughten, in a written reply to Independent TD Michael Healy-Rae, said any issues with crow bangers came under general noise regulation rules governed by the EPA.

There were no plans for specific legislation, at that time, the minister conceded.

The minister had also referred to the department's Guide to Noise Regulations, a four-page leaflet outlining what is open to persons complaining about noise, including the powers of a local authority.

"Current legislation in the area of noise does not specifically address the use of bird scarers (also referred to as crow bangers), and I have no plans to introduce such legislation," Mr Naughten had said.

A Guide to the Noise Regulations, on the legal remedies open to a person experiencing nuisance noise.

The guide can be downloaded [here](#)

Meanwhile, Limerick City and County Council is one of the few local authorities that introduced draft guidelines on environmental control, noise-nuisance and noise-action and specifically aimed at crop bangers in rural areas.

The council was guided by a code of practice published by the National Farmer's Union (NFU) in Britain.

Inviting public submissions based on the NFU link, the council explained: "A significant portion of farmland in County Limerick is used for growing crops and it is understandable that farmers take measures to deter bird infestation.

"However, it should be borne in mind that the use of scarers has the potential to cause perceived noise nuisance for the occupants of nearby dwellings."

Limerick City and County Council also recommend that farmers using such devices adhere to the NFU Code of Practice, the main points of which was to avoid causing a nuisance.

Greennews: Barriers to environmental justice ‘widespread’ across EU

<https://greennews.ie/barriers-enviro-justice-widespread-europe/>

Niall Sargent- December 3rd, 2018

Taking a legal challenge against environmentally damaging decisions is burdensome as barriers to justice are widespread across the EU, a report from Europe’s largest environmental network has found.

The European Union is respected as a global leader when it comes to protecting the environment, with over 650 pieces of legislation in force to protect habitats, air quality and a myriad of areas.

A new report from the European Environmental Bureau (EEB), however, finds that Member States are failing to ensure that citizens and environmental NGOs can challenge decisions in the courts.

The report identifies several key barriers to access to justice, including excessive costs, recommending that cost-capping measures are put in place, preferably through an EU-wide Directive.

The European Commission issued non-binding guidelines last year to Member States about their obligations to allow individuals and NGOs to bring environmental cases at the national level.

The Commission previously tried to bring in a Directive on Access to Justice in 2003, but it was blocked by Member States and later abandoned in 2014.

Costly legal challenges

The prohibitive cost of mounting a legal case is a key challenge in bringing environmental cases in Ireland, the Chief Justice said earlier this year.

Speaking at an environmental law seminar at the King’s Inns in July, Mr Justice Frank Clarke said that the issue of costs has been “one of Ireland’s great difficulties” in complying with its environmental obligations.

The European Commission’s Liam Cashman said that Ireland “stands out as really exceptional” within the EU due to the “cost risks” associated with taking a case to the courts.

If you create a “hostile cost environment”, Mr Cashman added, you can only realistically expect a “man or a woman of straw” or a one-shot NGO “ready for liquidation if things go wrong” to take up cases.

Timely decisions needed

The report calls for timely decision making in environmental cases due to the potential for more harm to be done to the environment as cases make their way through the legal system.

In cases where there is an urgency to stop environmental harm, delays can mean that even where there may be a favourable court decision, the environmental damage will not be restored, the report states.

Earlier this month, the High Court adjourned injunction proceedings brought by the Environmental Protection Agency to halt unlicensed peat extraction at a Co Westmeath bog until at least March 2019.

The environmental watchdog was seeking the injunction following the discovery in September 2018 that Harte Peat is extracting wet peat up to five metres deep on 11 hectares (ha) at its Derrycrave site.

Niamh Hyland SC, counsel for the EPA, said that the activity needs to be halted pending the outcome of a case against Harte Peat for unlicensed peat harvesting and extraction dating back to 2013.

High Court environmental rights constitution

Environmental court system

The EEB report also calls for States to follow the lead of China and India in setting up environmental courts where judges have the required scientific knowledge to hear environmental cases.

In the absence of dedicated courts, the EEB report calls for training for judges on environmental law and funding to increase capacity for judges to handle environmental cases, especially in the lower courts.

Francesca Carlsson, a legal officer at the EEB, said that NGOs must be able to continue to play their important role as watchdogs of Europe's hard-won environmental protections.

"Time and again in Europe citizens have stood up to dangerous government decisions by challenging them in court," she said.

People's Climate Case Graphic; Climate Action Network

People's Climate Case in Europe Graphic: Climate Action NetworkRecent Irish cases

Friends of the Irish Environment is currently taking on the State in the courts, claiming that the National Mitigation Plan does not do enough to reduce Ireland's emissions and violates Ireland's Climate Action and Low Carbon Development Act 2015. The case is set to be heard in January 2019.

Earlier this month, the Supreme Court ruled that An Taisce is entitled to an order restraining the continued operation of an unauthorised quarry in Co Galway.

The case, taken by the environmental charity relates to the continued operation without planning permission of a quarry operated by McTigue Quarries Ltd near Tuam, Co Galway.

Last year, the High Court recognised for the first time the constitutional right of Irish people to an environment that is consistent with the human dignity and well-being of citizens.

The judgement was made in relation to another challenge by FiE against the decision to grant the Dublin Airport Authority a planning extension for the construction of a third runway at Dublin Airport.

In support of its case, the environmental group argued that the Irish constitution granted implicit environmental protections.

While dismissing FiE's challenge, Mr Justice Barrett recognised for the first time a constitutional right to environmental protection "that is consistent with the human dignity and well-being of citizens at large".

In his judgement, Mr Justice Barrett said that such a right "is an essential condition for the fulfilment of all human rights".

“It is an indispensable existential right that is enjoyed universally, yet which is vested personally as a right that presents and can be seen always to have presented, and to enjoy protection, under Art. 40.3.1 of the Constitution. It is not so utopian a right that it can never be enforced,” the judgement continues.

Environmental Protection: End of Libby Cleanup in Sight: EPA

During the next year, this phase of the cleanup will be closed out, and long-term operations and maintenance of the site will transfer to the state in 2020. EPA reported that its activities at the W.R. Grace mine site will continue into the near future.

<https://eponline.com/articles/2018/12/03/end-of-libby-cleanup-in-sight-epa.aspx?m=1>

Dec 03, 2018

EPA on Nov. 29 recognized the work and collaboration of many in Libby, Mont. since the W.R. Grace vermiculite mine became a Superfund site in 1999. To date, EPA has investigated more than 8,100 properties and, as of mid-November 2018, completed the last of more than 2,600 scheduled property cleanups located within Libby and Troy, cleanups that required the removal and replacement of more than 1 million cubic yards of contaminated soil.

"This is an incredibly resilient community, and I am honored to recognize those who have made a difference, especially throughout the Superfund redevelopment efforts," said Doug Benevento, EPA's regional administrator. "As this 19-year-long cleanup draws to a close, we are here to thank local and state agencies and organizations and community members alike for their hard work, perseverance, and for envisioning a vibrant community."

During the next year, this phase of the cleanup will be closed out, and long-term operations and maintenance of the site will transfer to the state in 2020. EPA reported that its activities at the W.R. Grace mine site will continue into the near future.

In addition to recognizing the city of Libby for its work on the Riverfront Park, EPA recognized the following organizations for superior achievement in site reuse and environmental sustainability:

- Libby Parks Committee
- Flathead Electric Cooperative
- Lincoln County's David Thompson Search and Rescue
- Society of American Foresters
- BNSF Railway
- Montana Department of Natural Resources and Conservation
- Montana Department of Environmental Quality
- U.S. Forest Service – Kootenai National Forest
- United States Army Corps of Engineers – Omaha District

Contractors for EPA and the U.S. Army Corps of Engineers were also recognized for having an exceptional commitment to safety on this project. In October 2018, the contractors surpassed the 1 million hour mark without a lost workday incident.

Oil & Gas Journal: EPA establishes fresh renewable fuel, biomass-based diesel quotas

<https://www.ogj.com/articles/2018/12/epa-establishes-fresh-renewable-fuel-biomass-based-diesel-quotas.html>

By Nick Snow- 12/03/2018

The US Environmental Protection Agency established quotas on Nov. 30 for renewable fuels in 2019 and for biomass-based diesel in 2020. EPA said the conventional renewable fuel quota, which is met primarily by corn-based ethanol, will be maintained at 19 billion gal in 2019, while required advance biofuel volumes will climb by 630 million gal from 2018 to 19.92 billion gal.

The 2019 quota for cellulosic biofuels increased nearly 130 million gal to 418 million gal, EPA said. The 2020 biomass-based diesel quota was 330 million gal more than the 2019 required level.

Officials at several oil and gas and other trade associations were critical. "Implementing this broken program year after year simply doesn't make sense. We need a comprehensive legislative solution that sunsets the Renewable Fuel Standard," said American Petroleum Institute Downstream and Industry Operations Vice-Pres. Frank J. Macchiarola.

"The reality is that outdated assumptions made at the inception of the program, market forces, and technological innovations in the oil and natural gas industry have combined to necessitate a new policy framework," Macchiarola said.

"We wish we could respond differently to this announcement this year, but this merely marks another year of more of the same increases in the mandate that are completely detached from reality," the American Fuel & Petrochemical Manufacturers said in a statement.

"But, after more of a decade of this bad policy, we now look forward to working with EPA to reset these unrealistic volumes to better align with domestic production and market demand," AFPM said. "Even still, there is only so much EPA can do to make the unworkable workable, so we continue to call on Congress to step in and fix this broken program once and for all."

AVISIGHT, INC. UNVEILS THE FUTURE OF UNMANNED INSPECTIONS WITH REVOLUTIONARY C3UBE™

AviSight, the world's leading provider of unmanned aerial inspection and data services, has recently unveiled its proprietary C3UBE™ Command Center. This mobile command center enables unmanned Beyond Visual Line of Sight (BVLOS) data collection and near real time data streaming from almost any point within any critical infrastructure network.

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The latest numbers are high enough to set in motion a reset of the RFS program required by law when levels deviate more than 20% from those allowed under the RFS statute for 2 consecutive years, the National Council of Chain Restaurants said. The reset means EPA is required to conduct a complete review biofuel levels under the program, which could lead to lower levels being set, it added.

"Not only are those old levels wildly unrealistic for advanced fuels, the levels required for last-generation, conventional corn ethanol are unnecessary and run counter to the law's environmental goals," NCCR Executive Director David French said. "Corn ethanol is flatly bad for the environment and consumers alike, and it's high time for the mandate to go away."

National Marine Manufacturers Association Pres. Thom Dammrich said, "What's absent from the EPA's 2019 Renewable Volume Obligation requirements—and the larger RFS reform debate—is a commitment to protect middle-class

consumers from higher-ethanol blended fuels. They deserve greater choice at their local gas station, awareness of proper fuel blends, and better safeguards and warning labels at the pump.”

Dammrich said, “Without these additional steps, expanding the volume of ethanol in the fuel supply is both irresponsible and dangerous. We urge the administration to protect the American consumer from misfuelling.”

Bloomberg Law: EPA Dodges Liability Over Superfund Cleanup Assets-Taking

<https://news.bloomberglaw.com/product-liability-and-toxics-law/epa-dodges-liability-over-superfund-cleanup-assets-taking>

Steven M. Sellers- Posted Dec. 3, 2018, 10:58 AM

- Removal of slag, railroad track within EPA's discretionary authority
- Purchaser of assets alleged wrongful taking by government, contractors

A company that owns assets on a Superfund site in Alabama may not recover tort damages from the federal Environmental Protection Agency for the conversion of those assets during an EPA cleanup project, a federal appeals court ruled.

The unpublished Nov. 30 decision by the U.S. Court of Appeals for the Eleventh Circuit is the latest chapter in litigation over a Superfund site in Gadsden, Ala., that has spawned five lawsuits since 2010.

The appeals court upheld the dismissal of a Federal Torts Claims Act lawsuit brought by Gadsden Industrial Park LLC against the government and two federal contractors at the site.

Gadsden argued cleanup of the site converted or rendered the slag unusable, and that cleanup efforts buried portions of railroad tracks at the site it had purchased.

Here, the agency's decisions in cleaning up the site were a discretionary function for which it had sovereign immunity from tort liability, the court said.

Congress granted the EPA broad discretionary authority in cleaning up hazardous waste under the Comprehensive Environmental Response, Compensation, and Liability Act, or Superfund, and here there was no dispute that the slag piles were a source of such waste, the court said.

Gadsden's claims against the contractors, CMC Inc. and Harsco Corp., also failed.

Those claims were rejected in earlier litigation and may not be relitigated here, the court said.

Judge Charles Reginald Wilson, Adalberto José Jordán, and J.L. Edmondson participated in the decision.

The Levicoff Law Firm PA and Maxwell H. Pullman LLC represented Gadsden.

Scott Dukes & Geisler PC and Marshall Oakley & Oakley represented CMC. Spilman Thomas & Battle PLLC represented Harsco.

The case is Gadsden Indus. Park LLC v. United States, 2018 BL 441379, 11th Cir., No. 17-15325, 11/30/18.

Biofuels: EPA sets 2019 RFS volumes, industry responds

https://biofuels-news.com/display_news/14176/epa_sets_2019_rfs_volumes_industry_responds/

December 3, 2018

The EPA announced that it has finalised the required renewable fuel volumes under the Renewable Fuel Standard (RFS) for 2019, as well as biomass-based diesel for 2020.

“Issuing the annual renewable volume obligations rule on time is extremely important to all stakeholders impacted by the Renewable Fuel Standard program,” said EPA acting administrator Andrew Wheeler.

“Unlike the previous administration, the Trump Administration has consistently met the deadline on time and fulfilled our commitment to provide stability to the program and greater certainty to farming and refining communities across the country.”

‘Conventional’ renewable fuel volumes, primarily met by corn ethanol, will be maintained at the original 15-billion-gallon target set by Congress for 2019.

Advanced biofuel volumes for 2019 will be increased by 630 million gallons over the 2018 standard. Cellulosic biofuel volumes will also be increased for 2019 by almost 130 million gallons over the 2018 standard.

Biomass-based diesel volumes for 2020 will increase by 330 million gallons over the standard for 2019.

Once the volumes had been published, various members of the biofuels industry responded. The National Biodiesel Board’s CEO Donnell Rehagen criticised the underwhelming standards for biodiesel, claiming that the EPA selected the volumes knowing that the annual volume of biodiesel exceeded it.

“EPA recognizes that the biodiesel and renewable diesel industry is producing fuel well above the annual volumes. The industry regularly fills 90 percent of the annual advanced biofuel requirement,” said Rehagen.

“Nevertheless, the agency continues to use its maximum waiver authority to set advanced biofuel requirements below attainable levels. The method is inconsistent with the RFS program’s purpose, which is to drive growth in production and use of advanced biofuels such as biodiesel.”

Ethanol trade association Growth Energy noted the positive commitment to ethanol, though still posted a reminder of the ongoing dispute between the industry and the EPA over small refinery waivers.

“We are pleased to see the 2019 RVO numbers released on time and that they hold strong promise, with a 15 billion gallon commitment to starch ethanol and 418 million gallons of cellulosic biofuels,” said Growth Energy CEO Emily Skor.

“But the latest EPA rule is also a missed opportunity to correctly account for billions of gallons of ethanol lost to refinery exemptions. Until these are addressed properly, we’re still taking two steps back for every step forward.”

The Renewable Fuels Association’s (RFA) president and CEO Geoff Cooper shared similar sentiments, stating: “While we are pleased that EPA finalized the statutory 15-billion-gallon requirement for conventional renewable fuels and modest increases to the cellulosic and advanced biofuel categories, we note that EPA did not prospectively account for any small refiner exemptions that it expects to issue in 2019. Hopefully, that means EPA is not intending to issue any small refiner waivers at all in 2019 because it knows there is no rationale or basis for doing so.”

Major renewable diesel producer Neste reacted positively to the standards, as its product, Neste MY Renewable Diesel, meets the requirements as an advanced biomass-based biofuel.

“We appreciate the EPA's continued commitment to advanced biofuels. Neste MY Renewable Diesel is an ideal low-carbon fuel to meet the US renewable fuel standards, as it is fully compatible with existing fuel distribution systems”, says Kaisa Hietala, executive Vice-president of Neste's Renewable Products business area.